

# THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

## ONE ASHBURTON PLACE **BOSTON, MASSACHUSETTS 02108**

(617) 727-2200 (617) 727-4765 TTY www.mass.gov/ago

#### **Initiative Petition Information Sheet**

Title of Petition: <b>Initiative Petition for a Law Relati</b> y	ve to Public Records	

Petition Number:	(to be filled in by Attorney General's Office staff)
Proponents' Contac	et
Name: William I	Francis Galvin
Residential Addr	ress: 46 Lake Street, Boston (Brighton), MA, 02135
Phone: 617-787-	3757
Email:	
Business Addres	s:
Phone:	
Proponents' Attorn	ey
Name:	
Address:	
Phone:	
Email:	
Optional:	
Will the propone	nts propose a summary by the Monday, 5 days after the petition-filing deadline?
X_Yes	No
Will the propone	nts submit a memo of law by the Friday 9 days after the petition-filing deadline?
Yes	XNo
opponents of certific	bove information will be made available to the public and particularly to possible ation. The Proponent and Proponents' Attorney (if any) will receive copies of any by the public regarding certification.

(to be filled in by Attorney General's Office staff)

**AGO Staff Person Receiving Petition:** 

Date:

#### Initiative Petition for a Law Relative to Public Records

*Be it enacted by the People, and by their authority:* 

SECTION 1: Section 1 of Chapter 66 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by adding at the end thereof the following three paragraphs:—

- (a) The Secretary of the Commonwealth, supervisor of records, or any officer the Secretary so designates, in his discretion:— (1) may make such inquiry as he deems necessary to determine whether any person has violated any provision of this chapter or any regulation hereunder, or to aid in the enforcement of this chapter or in the prescribing of further regulations hereunder; (2) may require or permit any person to file a statement in writing, under oath or otherwise, as the Secretary, supervisor of records, or the officer designated by the Secretary determines, as to all the facts and circumstances concerning the matter to be investigated, and (3) may upon a finding that there has been a violation of this chapter, issue an order requiring the violator to comply with statutory requirements of said chapter, or the regulations promulgated by the supervisor of records pursuant to the authority granted in this chapter and take whatever action appropriate to enforce such order.
- (b) The Attorney General shall designate an enforcement officer and provide notice of such designation to the Secretary five business days prior to the designation.
- (c) The enforcement officer designated by the Attorney General shall file a motion, upon request by the Secretary or supervisor of records, in a court of competent jurisdiction to enforce the supervisor of records' order, as defined in subpart (a)(3) of this section. The supervisor of records' order must be given deference by the designated enforcement officer in any proceeding involving the data.

SECTION 2: Section 10 of Chapter 66 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by removing subsections (a) and (b) and replacing it with the following language:—

(a) (1) Every person having custody of any public record, as defined in clause Twenty-sixth of section seven of chapter four, shall, at reasonable times and without unreasonable delay, permit it, or any segregable portion of a record which is an independent public record, to be inspected and examined by any person, under his supervision, and shall furnish one copy thereof upon payment of a reasonable fee. Every person for whom a search of public records is made shall, at the direction of the person having custody of such records, pay the actual expense of such search. (2) Except where fees for copies of public records are prescribed by statute, a governmental entity shall charge no more than the fees prescribed by regulation as promulgated by the supervisor of records. In no event shall the fees as promulgated by the supervisor of records exceed fifteen cents per black and white photocopy or printout and twenty-five cents per color photocopy or printout. (3) A custodian shall provide a written, good faith estimate of the applicable copying, search time and segregation time fees to be incurred prior to complying with a public records request where the total costs are estimated to exceed ten dollars, provided that no search or segregation fee shall be charged unless at least two hours of employee time is needed to prepare a copy of the record requested. (4) The following fees shall apply to any public record in the custody of the state police, the Massachusetts bay transportation authority police or any municipal police department or fire department: for preparing and mailing a motor vehicle accident report, five dollars for not more than six pages and fifty cents for each additional page; for preparing and mailing a fire insurance report, five dollars for not more than six pages plus fifty cents for each additional page; for preparing and mailing crime,

incident or miscellaneous reports, one dollar per page; for furnishing any public record, in hand, to a person requesting such records, fifty cents per page. A page shall be defined as one side of an eight and one-half inch by eleven inch sheet of paper.

(b) A custodian of a public record shall, within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered in hand to the office of the custodian, mailed via first class mail or transmitted electronically. If the custodian refuses or fails to comply with such a request, the person making the request may petition the supervisor of records for a determination whether the record requested is public. Upon the determination by the supervisor of records that the record is public, he shall order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order, the supervisor of records may notify the attorney general or the appropriate district attorney thereof who may take whatever measures he deems necessary to ensure compliance with the provisions of this section. The supervisor of records' order must be given deference by the attorney general, district attorney or designated enforcement officer in a proceeding involving the data. The administrative remedy provided by this section shall in no way limit the availability of the administrative remedies provided by the commissioner of administration and finance with respect to any officer or employee of any agency, executive office, department or board; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If a custodian of a public record refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this section, the supreme judicial or superior court shall have jurisdiction to order compliance. Upon the finding that a denial of any right created by this chapter was without reasonable grounds and after the custodian or other official directly responsible for the denial has been given an opportunity to be heard by the court, the court may, in its discretion, impose against the custodian or other official a civil penalty of not less than twenty dollars nor more than one thousand dollars. If a person seeking the right to inspect or receive a copy of a public record prevails in a judicial proceeding under this section, the court shall award such person reasonable attorneys' fees and costs upon its determination that the custodian or other official directly responsible for the denial acted in bad faith.

SECTION 3: Clause 26 of section 7 of chapter 4 of the General Laws is amended by removing subclause (f) and replacing it with the following language:

(f) investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest. While victim and witness identifying information may be indefinitely withheld, criminal investigative information shall be considered active as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future:

SECTION 4: If any provision of this act or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

SECTION 5: This Act shall take effect January 1, 2017.

### **Original Signers:**

1. William Francis Galvin

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Boston, MA

2. Anthony J. Vigliotti

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